

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

STEPHANIE MARIE MENZIES

Applicant for Registered Nurse License

Respondent

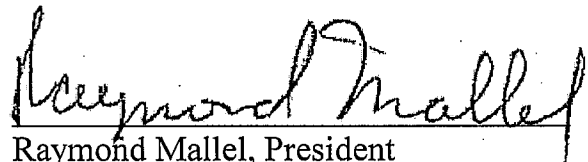
Case No. 2012 -464

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **November 16, 2012**.

IT IS SO ORDERED **October 17, 2012**.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7 E-mail: Geoffrey.Allen@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **STEPHANIE MARIE MENZIES**

14 Respondent.
15

Case No. 2012-464

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Geoffrey S. Allen, Deputy Attorney General.

24 2. Respondent Stephanie Marie Menzies (Respondent) is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about April 5, 2011, Respondent filed an application dated April 1, 2011, with
27 the Board of Registered Nursing to obtain a Registered Nurse License.

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1 **Severability Clause.** Each condition of probation contained herein is a separate and
2 distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
7 detailed account of any and all violations of law shall be reported by Respondent to the Board in
8 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
9 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
10 45 days of the effective date of the decision, unless previously submitted as part of the licensure
11 application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
16 the conditions of the Probation Program established by the Board and cooperate with
17 representatives of the Board in its monitoring and investigation of the Respondent's compliance
18 with the Board's Probation Program. Respondent shall inform the Board in writing within no
19 more than 15 days of any address change and shall at all times maintain an active, current license
20 status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully restored.

22 3. **Report in Person.** Respondent, during the period of probation, shall appear in
23 person at interviews/meetings as directed by the Board or its designated representatives.

24 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
25 practice as a registered nurse outside of California shall not apply toward a reduction of this
26 probation time period. Respondent's probation is tolled, if and when she resides outside of
27 California. Respondent must provide written notice to the Board within 15 days of any change of
28 residency or practice outside the state, and within 30 days prior to re-establishing residency or

1 returning to practice in this state.

2 Respondent shall provide a list of all states and territories where she has ever been licensed
3 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
4 information regarding the status of each license and any changes in such license status during the
5 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
6 license during the term of probation.

7 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
8 or cause to be submitted such written reports/declarations and verification of actions under
9 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
10 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
11 Respondent shall immediately execute all release of information forms as may be required by the
12 Board or its representatives.

13 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
14 state and territory in which she has a registered nurse license.

15 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
16 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
17 6 consecutive months or as determined by the Board.

18 For purposes of compliance with the section, "engage in the practice of registered nursing"
19 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
20 non-direct patient care position that requires licensure as a registered nurse.

21 The Board may require that advanced practice nurses engage in advanced practice nursing
22 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

23 If Respondent has not complied with this condition during the probationary term, and
24 Respondent has presented sufficient documentation of her good faith efforts to comply with this
25 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
26 extension of Respondent's probation period up to one year without further hearing in order to
27 comply with this condition. During the one year extension, all original conditions of probation
28 shall apply.

1 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
2 prior approval from the Board before commencing or continuing any employment, paid or
3 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
4 performance evaluations and other employment related reports as a registered nurse upon request
5 of the Board.

6 Respondent shall provide a copy of this Decision to her employer and immediate
7 supervisors prior to commencement of any nursing or other health care related employment.

8 In addition to the above, Respondent shall notify the Board in writing within seventy-two
9 (72) hours after she obtains any nursing or other health care related employment. Respondent
10 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
11 separated, regardless of cause, from any nursing, or other health care related employment with a
12 full explanation of the circumstances surrounding the termination or separation.

13 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
14 Respondent's level of supervision and/or collaboration before commencing or continuing any
15 employment as a registered nurse, or education and training that includes patient care.

16 Respondent shall practice only under the direct supervision of a registered nurse in good
17 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
18 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
19 approved.

20 Respondent's level of supervision and/or collaboration may include, but is not limited to the
21 following:

22 (a) Maximum - The individual providing supervision and/or collaboration is present in
23 the patient care area or in any other work setting at all times.

24 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
25 care unit or in any other work setting at least half the hours Respondent works.

26 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
27 person communication with Respondent at least twice during each shift worked.

28 (d) Home Health Care - If Respondent is approved to work in the home health care

1 setting, the individual providing supervision and/or collaboration shall have person-to-person
2 communication with Respondent as required by the Board each work day. Respondent shall
3 maintain telephone or other telecommunication contact with the individual providing supervision
4 and/or collaboration as required by the Board during each work day. The individual providing
5 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
6 patients' homes visited by Respondent with or without Respondent present.

7 **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any
8 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
9 or for an in-house nursing pool.

10 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
11 registered nursing supervision and other protections for home visits have been approved by the
12 Board. Respondent shall not work in any other registered nursing occupation where home visits
13 are required.

14 Respondent shall not work in any health care setting as a supervisor of registered nurses.
15 The Board may additionally restrict Respondent from supervising licensed vocational nurses
16 and/or unlicensed assistive personnel on a case-by-case basis.

17 Respondent shall not work as a faculty member in an approved school of nursing or as an
18 instructor in a Board approved continuing education program.

19 Respondent shall work only on a regularly assigned, identified and predetermined
20 worksite(s) and shall not work in a float capacity.

21 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
22 request documentation to determine whether there should be restrictions on the hours of work.

23 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
24 successfully complete a course(s) relevant to the practice of registered nursing no later than six
25 months prior to the end of her probationary term.

26 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
27 Respondent shall submit to the Board the original transcripts or certificates of completion for the
28 above required course(s). The Board shall return the original documents to Respondent after

1 photocopying them for its records.

2 **11. Violation of Probation.** If Respondent violates the conditions of her probation, the
3 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
4 and impose the stayed discipline (revocation/suspension) of Respondent's license.

5 If during the period of probation, an accusation or petition to revoke probation has been
6 filed against Respondent's license or the Attorney General's Office has been requested to prepare
7 an accusation or petition to revoke probation against Respondent's license, the probationary
8 period shall automatically be extended and shall not expire until the accusation or petition has
9 been acted upon by the Board.

10 **12. License Surrender.** During Respondent's term of probation, if she ceases practicing
11 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
12 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
13 Respondent's request and to exercise its discretion whether to grant the request, or to take any
14 other action deemed appropriate and reasonable under the circumstances, without further hearing.
15 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
16 subject to the conditions of probation.

17 Surrender of Respondent's license shall be considered a disciplinary action and shall
18 become a part of Respondent's license history with the Board. A registered nurse whose license
19 has been surrendered may petition the Board for reinstatement no sooner than the following
20 minimum periods from the effective date of the disciplinary decision:

21 (1) Two years for reinstatement of a license that was surrendered for any reason other
22 than a mental or physical illness; or

23 (2) One year for a license surrendered for a mental or physical illness.

24 **13. Physical Examination.** Within 45 days of the effective date of this Decision,
25 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
26 assistant, who is approved by the Board before the assessment is performed, submit an
27 assessment of the Respondent's physical condition and capability to perform the duties of a
28 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If

1 medically determined, a recommended treatment program will be instituted and followed by the
2 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
3 to the Board on forms provided by the Board.

4 If Respondent is determined to be unable to practice safely as a registered nurse, the
5 licensed physician, nurse practitioner, or physician assistant making this determination shall
6 immediately notify the Board and Respondent by telephone, and the Board shall request that the
7 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
8 immediately cease practice and shall not resume practice until notified by the Board. During this
9 period of suspension, Respondent shall not engage in any practice for which a license issued by
10 the Board is required until the Board has notified Respondent that a medical determination
11 permits Respondent to resume practice. This period of suspension will not apply to the reduction
12 of this probationary time period.

13 If Respondent fails to have the above assessment submitted to the Board within the 45-day
14 requirement, Respondent shall immediately cease practice and shall not resume practice until
15 notified by the Board. This period of suspension will not apply to the reduction of this
16 probationary time period. The Board may waive or postpone this suspension only if significant,
17 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
18 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
19 Only one such waiver or extension may be permitted.

20 **14. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

21 Respondent, at her expense, shall successfully complete during the probationary period or shall
22 have successfully completed prior to commencement of probation a Board-approved
23 treatment/rehabilitation program of at least six months duration. As required, reports shall be
24 submitted by the program on forms provided by the Board. If Respondent has not completed a
25 Board-approved treatment/rehabilitation program prior to commencement of probation,
26 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
27 If a program is not successfully completed within the first nine months of probation, the Board
28 shall consider Respondent in violation of probation.

1 Based on Board recommendation, each week Respondent shall be required to attend at least
2 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
3 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
4 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
5 added. Respondent shall submit dated and signed documentation confirming such attendance to
6 the Board during the entire period of probation. Respondent shall continue with the recovery plan
7 recommended by the treatment/rehabilitation program or a licensed mental health examiner
8 and/or other ongoing recovery groups.

9 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
10 completely abstain from the possession, injection or consumption by any route of all controlled
11 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
12 are ordered by a health care professional legally authorized to do so as part of documented
13 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
14 days, by the prescribing health professional, a report identifying the medication, dosage, the date
15 the medication was prescribed, the Respondent's prognosis, the date the medication will no
16 longer be required, and the effect on the recovery plan, if appropriate.

17 Respondent shall identify for the Board a single physician, nurse practitioner or physician
18 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
19 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
20 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
21 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
22 considered addictive have been prescribed, the report shall identify a program for the time limited
23 use of any such substances.

24 The Board may require the single coordinating physician, nurse practitioner, or physician
25 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
26 medicine.

27 **16. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
28 random, biological fluid testing or a drug screening program which the Board approves. The

1 length of time and frequency will be subject to approval by the Board. Respondent is responsible
2 for keeping the Board informed of Respondent's current telephone number at all times.
3 Respondent shall also ensure that messages may be left at the telephone number when she is not
4 available and ensure that reports are submitted directly by the testing agency to the Board, as
5 directed. Any confirmed positive finding shall be reported immediately to the Board by the
6 program and Respondent shall be considered in violation of probation.

7 In addition, Respondent, at any time during the period of probation, shall fully cooperate
8 with the Board or any of its representatives, and shall, when requested, submit to such tests and
9 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
10 hypnotics, dangerous drugs, or other controlled substances.

11 If Respondent has a positive drug screen for any substance not legally authorized and not
12 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
13 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
14 practice pending the final decision on the petition to revoke probation or the accusation. This
15 period of suspension will not apply to the reduction of this probationary time period.

16 If Respondent fails to participate in a random, biological fluid testing or drug screening
17 program within the specified time frame, Respondent shall immediately cease practice and shall
18 not resume practice until notified by the Board. After taking into account documented evidence
19 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
20 suspend Respondent from practice pending the final decision on the petition to revoke probation
21 or the accusation. This period of suspension will not apply to the reduction of this probationary
22 time period.

23 **17. Mental Health Examination.** Respondent shall, within 45 days of the effective date
24 of this Decision, have a mental health examination including psychological testing as appropriate
25 to determine her capability to perform the duties of a registered nurse. The examination will be
26 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
27 the Board. The examining mental health practitioner will submit a written report of that
28 assessment and recommendations to the Board. All costs are the responsibility of Respondent.

1 Recommendations for treatment, therapy or counseling made as a result of the mental health
2 examination will be instituted and followed by Respondent.

3 If Respondent is determined to be unable to practice safely as a registered nurse, the
4 licensed mental health care practitioner making this determination shall immediately notify the
5 Board and Respondent by telephone, and the Board shall request that the Attorney General's
6 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
7 practice and may not resume practice until notified by the Board. During this period of
8 suspension, Respondent shall not engage in any practice for which a license issued by the Board
9 is required, until the Board has notified Respondent that a mental health determination permits
10 Respondent to resume practice. This period of suspension will not apply to the reduction of this
11 probationary time period.

12 If Respondent fails to have the above assessment submitted to the Board within the 45-day
13 requirement, Respondent shall immediately cease practice and shall not resume practice until
14 notified by the Board. This period of suspension will not apply to the reduction of this
15 probationary time period. The Board may waive or postpone this suspension only if significant,
16 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
17 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
18 Only one such waiver or extension may be permitted.

19 **18. Therapy or Counseling Program.** Respondent, at her expense, shall participate in
20 an on-going counseling program until such time as the Board releases her from this requirement
21 and only upon the recommendation of the counselor. Written progress reports from the counselor
22 will be required at various intervals.

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Exhibit A

Statement of Issues No. 2012-464

EXHIBIT A
STATEMENT OF ISSUES
NO. 2012-464

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **STEPHANIE MARIE MENZIES**
6244 Hazel Ave #113
14 Orangevale, CA 95662

Case No. **2012-464**

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing
21 ("Board"), Department of Consumer Affairs.

22 **Application Information**

23 2. On or about April 5, 2011, the Board received an Application for Licensure by
24 Examination from Stephanie Marie Menzies ("Respondent"). On or about April 1, 2011,
25 Stephanie Marie Menzies certified under penalty of perjury to the truthfulness of all statements,
26 answers, and representations in the application. The Board denied the application on August 29,
27 2011.

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STATUTORY PROVISIONS

3. Section 2736 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.

4. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

5. Code section 2761, states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct...,

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Criminal Convictions)**

3 7. Respondent's application is subject to denial pursuant to Code sections 480,
4 subdivision (a)(1) and 2761, subdivision (f), in that Respondent has been convicted of the
5 following crimes that are substantially related to the qualifications, functions, or duties of a
6 registered nurse:

7 a. On or about March 21, 2006, in the Superior Court, County of Placer, California,
8 in the matter entitled *People vs. Stephanie Marie Menzies*, 2005, Case No. 62-056007 Respondent
9 was convicted following her plea of nolo contendere to a violation of Vehicle Code section
10 23152, subdivision (a) (driving while under the influence), a misdemeanor and Vehicle Code
11 section 22350 (unsafe speed), an infraction. The circumstances of the crime are that on October
12 21, 2005, Respondent was arrested for driving under the influence of alcohol following a traffic
13 stop. Respondent's blood alcohol level measured .12% and .11%.

14 b. On or about December 14, 2006, in the Superior Court, County of Sacramento,
15 California, in the matter entitled *People vs. Stephanie Marie Menzies*, 2006, Case No. 06T05101
16 Respondent was convicted following her plea of nolo contendere to a violation of Vehicle Code
17 section 23152, subdivision (b)(driving with a blood alcohol level of .08% or more), a
18 misdemeanor and Vehicle Code section 14601.2, subdivision (a) (driving with a suspended
19 license), a misdemeanor. The circumstances of the crime are that on October 4, 2006,
20 Respondent was arrested for driving under the influence of alcohol following a traffic stop.
21 Blood alcohol level measured .19%.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(Committed Acts Which if Done by a Licentiate Would Constitute Cause for Discipline)**

24 8. Respondent's application is subject to denial pursuant to Code section 480
25 subdivision (a)(3)(A), in that Respondent committed acts which if done by a licentiate constitute
26 cause for discipline pursuant to Code section 2761, subdivisions (a) and (f) and Code section
27 2762, subdivisions (b) and (c).

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1. Denying the application of Stephanie Marie Menzies for a registered nurse license;
- and,
2. Taking such other and further action as deemed necessary and proper.

Louise R. Bailey
 LOUISE R. BAILEY, M.ED., RN
 Interim Executive Officer
 Board of Registered Nursing
 Department of Consumer Affairs
 State of California
Complainant